



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,053	08/11/2000	Cynthia Calonge	22554.2	7195

7590 04/07/2005

Mark A. Kammer
KAMMER BROWNING, PLLC
7700 Broadway
Ste. 202
San Antonio, TX 78209

EXAMINER

NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
----------	--------------

3661

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

APR 07 2005

GROUP 3600

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/637,053
Filing Date: August 11, 2000
Appellant(s): CALONGE, CYNTHIA

Mr. Mark A. Kammer, Reg. No. 34,197
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 10, 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

There is none related appeal and interference.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct. The pending claims for appeal are independent claim 1, and its dependent claims 4-6. Claims 2-3 were cancelled.

(4) Status of Amendments After Final

There is no Amendment after Final rejection has been submitted.

(5) Summary of Invention

37 CFR 1.192 requires a concise explanation of the invention defined in the claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing by reference character; the submitted "Summary of Invention" do not conform to this requirement; therefore, it is defected.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

- Appellant's brief includes a statement that: claims 1, and 4-6 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

- Giovannolli et al. (US Pat. 5,758,328)

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims. The ground(s) for rejection (for pending claims 1, and 4-6) are provided here for the convenience of both Appellants and the Board of Patent Appeals.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a), which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negative by the manner in which the invention was made.

11. Claims 1, and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giovannoli. (US Pat. 5,758,328).

A. As per independent claim 1: Giovannoli suggests a method for establishing and brokering a transaction between purchasers and vendors over a wide area network (see Giovannoli, Fig.1).

Giovannoli teaches of providing a database of vendor information to a buyer for review, Giovannoli discloses: "For this reason existing centralized database systems are created and maintained by the one or a few vendors whose goods and prices are displayed. These systems necessarily restrict a buyer's choice of vendors." This means a list of vendors is selected for claimed transaction/selecting goods/service, wherein description of the goods and services required by a purchaser (see Giovannoli, the abstract).

- Giovannoli discloses a step of electronically comparing required goods/services of a buyer to those of a sellers database; this is what "request for proposal" all about (from vendors); Giovannoli discloses: "In the preferred embodiment the vendor class of network members are filtered to be selected based on their likelihood to respond to the request for quotation. Alternatively, or in addition, the vendor responses may likewise be filtered to satisfy

conditions of the vendors responding or in accordance with predefined conditions for facilitating a linkage between the prospective buyer and an acceptable seller."

Giovannoli discloses a request for quote (from vendors) this is similar to "request for proposal" (from vendors) - (see Giovannoli, claim 12).

And in claim 15, Giovannoli teaches about filtering received bids from potential sellers in response to any requests for proposal for goods/services by the filter means.

Giovannoli also suggests about identifying vendors in a database, matching buyers of goods/services with sellers to a buyer's requirement in claim 17 of his patent (i.e., accepting quotes from sellers meeting said first set of filter conditions, and filtering said quotes so that only quotes meeting additional filter conditions are sent to a buyer requesting said quotes.

Giovannoli also discloses: "comparing said description of the goods and services required by said at least one potential purchaser in said RFP information with said descriptions of the goods and services offered by said plurality of vendors in said vendor database, said comparing

step carried out by computer", this is similar to a buyer's requirement (further see Giovannoli, claim 4).

The next claimed step is an automatically identifying vendors, Giovannoli teaches that using computer filtering to identifying vendors (see Giovannoli, claim 4).

The next claimed step is "generating a sub-list of vendors who are identified", Giovannoli suggests that using computer filtering to identifying vendors (see Giovannoli, claims 4, and 13), and generating/displaying it.

It is obvious that selecting a vendor/narrowing down vendors by a buyer because this is a reason why there is a filtering step from Giovannoli's disclosure: "In the preferred embodiment the vendor class of network members are filtered to be selected based on their likelihood to respond to the request for quotation. Alternatively, or in addition, the vendor responses may likewise be filtered to satisfy conditions of the vendors responding or in accordance with predefined conditions for facilitating a linkage between the prospective buyer and an acceptable seller".

It would have been obvious that there is a bi-directional communication between selected potential vendors and a buyer after filtering/matching them with buyer's request (see Giovannoli, claim 17 "accepting quotes from

sellers meeting said first set of filter conditions, and filtering said quotes so that only quotes meeting additional filter conditions are sent to a buyer requesting said quotes.") (this teaches a step of "communicating an acceptance or a rejection from a buyer to a selected potential vendor" because this is a similar purpose between Giovannoli and this pending application.

In summary, Giovannoli suggests a method for establishing and initiating a transaction between purchasers and vendors over a wide area computer network, comprising:

- providing a vendor database, said database comprising information on vendors, said information comprising a description of the goods and services offered by said vendors (see Giovannoli, 4:40-45);
- providing a request for proposal to a purchaser over said network (see Giovannoli, the abstract and Figs.1, 4);
- receiving said request for proposal from a purchaser, said proposal comprising a description of the goods and services required by said purchaser (see Giovannoli, the abstract and Figs.1, and 4);
- comparing said proposal's info. with said info. in a vendor database then identifying vendors in said vendor's database offering goods and services that are similar to

said goods and services required by said purchaser (see Giovannoli, claim 4 and Fig.6);

- communicating said proposal's info. to identified vendors (see Giovannoli, the abstract and Figs.1, 4);
- communicating a response from identified vendors to said purchaser, said response comprising a proposal to provide goods and services to said purchaser (see Giovannoli, the abstract).

B. As per dependent claim 4: Giovannoli suggests a step of receiving information from potential purchaser (see Giovannoli, Fig.4) via World-Wide-Web further comprises receiving vendor selection criteria (after filtering based on "FILTER CRITERIA").

It would have been obvious to one of ordinary skill in the art that Giovannoli suggests a criteria for selecting vendors was supplied by a buyer/purchaser after reviewing vendor information because a level of selecting based on buyer criteria is more sufficient and practical compared to given a "tough" criteria that none of the vendor can meet.

C. As per dependent claim 5: Giovannoli also suggests a step of communicating a response from a selected potential vendor to a potential purchaser (via FTP and "CENTRAL

OFFICE" (see Giovannoli, Fig.4), comprising a potential vendor reviewing RFP information, generating a proposal in response to said RFP information, and transmitting said proposal to a potential purchaser.

These above steps are suggested by Giovannoli in Fig.4 by showing arrows for bi-directional exchanging communication between a purchaser/buyer and a selected vendor.

It would have been obvious for one of ordinary skill in the art to appreciate the above claimed ideas from Giovannoli for a transaction between purchasers and vendors over a computer network.

D. As per dependent claim 6: Giovannoli suggests a step of exchange a communication a response from a selected potential vendor to a potential buyer, comprising reviewing said RFP by a vendor, generating a proposal in response to said RFP information, and transmitting said proposal to a potential purchaser (see Giovannoli, Fig.4).

It would have been obvious for one of ordinary skill in the art to appreciate the above claimed ideas from Giovannoli's suggestion for a transaction between purchasers and vendors over a computer network.

(12) Response to Argument:

A. The examiner respectfully submits that Giovannoli's reference reads on the claimed language (even after amended pending claims). On page 5, lines 9-10 the applicant points out that "The key distinction to be aware of when comparing the Giovannoli method is vendor driven while the present invention is buyer driven", this conflicts with applicant's Diagram A (page 6) and Giovannoli's Diagram B (page 7) since both Diagrams present "buyer driven". In claim 1, there

B. In many places, the applicant argues that the sole reference for rejections is not an analogous art. The examiner strongly disagrees because the reference is in similar environment, having many similar limitations, and is used to similar application in electronic commerce.

C. In claim 1, applicant agrees that Giovannoli teaches steps: 1(a), 1(c), 1(d), 1(e), 1(h); therefore, the examiner only shows his positions for other steps 1(b), 1(f), and 1(g), and 1(i) (please note that the applicant doesn't identify by labeling these steps in pending claim 1).

Step 1(b): a server providing a RFP form/template to a purchaser (this form has all expected requirements - see Giovannoli, Fig.7 "BUYER'S DATA PACKET).

Step 1(f): generating a sub-list of vendor for review (see Giovannoli, Fig.5 the block of "GENERATE

LIST OF QUALIFYING VENDORS ORDERED BY POSITION" wherein a sub list of vendors are qualified, and Fig.7 "VENDOR ADDS TO THE DATA PACKET" wherein a step of filtering vendor's qualification to narrow down a list of potential vendors).

Step 1(g): a purchaser selecting a vendor from a generated sub-list (this is done via "ACCEPTANCE", and "UPDATE" step - see applicant's Diagram B - page 7 of the Appeal Brief); Giovannoli also discloses this step in Fig. 2A, blocks 4-5.

Step 1(i): communicating between a selected vendor and a purchaser (this would be done via a chart of Giovannoli's Fig.4 between a vendor and a buyer to clarify/sending quotes after a vendor is selected); Giovannoli discloses that Fig.8 "PRICE QUOTATION" is used for this communication.

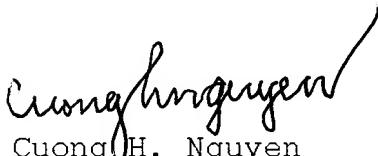
D. It is reasonable that a modification of cited references would be apparent to those skilled in the art at the time of invention without departing from the scope and spirit of Giovannoli because this application mainly claim a process of selecting a vendor by a buyer. Although Giovannoli's invention may be described in connection with

S.N. 09/637,053
Art Unit 3661

specific preferred embodiments, it should be understood that its limitations as disclosed should not be limited to such specific embodiments.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Cuong H. Nguyen
March 31, 2005

An appeal conference was held on March 29, 2005 with:



SPE Thomas G. Black, AU 3661



SPE Sam Sough, AU 3622

To: Mr. Mark A. Kammer, Reg. No. 34,197
Kammer Browning PLLC
7700 Broadway, Suite 202
San Antonio, TX 78209